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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/242,485	11/15/1999	PETER SHINTANI	450108-4474	1116

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/242,485

Applicant(s)

SHINTANI, PETER

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,915,243 to Smolen in view of U.S. Patent 5,227,874 to Von Kohorn.

Regarding claim 1, Smolen discloses in Figure 1, a STB 101 which enables a user to take part in a survey, a user answers question and their responses are stored, in exchange for their responses a number of coupons or promotions are offered to the user (column 4, lines 6-18, column 5, line 1-column 6, line 57). Smolen does not disclose allocating points once the program is viewed in its entirety. Von Kohorn discloses a survey system, which awards a user points/coupons once they have fully completed a survey on a survey device (column 107, line 29-column 108, line 17).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Smolen to allocate points once a survey has been completed as taught by Von Kohorn, thus insuring that a user would complete a survey instead of providing incomplete data.

Regarding claims 2 and 7, Smolen discloses that the user device is a STB 101, which tunes to a broadcast signal from broadcast system 120 (column 4, lines 6-19). Smolen does not disclose response program determining means to determine whether or not the received programming is a response program. The examiner takes official notice that the use of a program attribute to determine the type of programming is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Smolen/Von Kohorn to include a program attribute, which identifies the type of programming; thereby enabling a set top box to discern between broadcast video programming and a survey or questionnaire.

Regarding claims 3 and 4, Smolen discloses that the user responses are stored locally and then transmitted to a processing facility 130 (column 7, lines 26-37).

Regarding claim 6, Smolen discloses in Figure 1, a STB 101 which enables a user to take part in a survey, a user answers question and their responses are stored, in exchange for their responses a number of coupons or promotions are offered to the user (column 4, lines 6-18, column 5, line 1-column 6, line 57), user responses are stored locally and then transmitted to a processing facility 130 (column 7, lines 26-37). Smolen does not disclose allocating points once the program is viewed in its entirety. Von Kohorn discloses a survey system, which awards a user points/coupons once they have fully completed a survey on a survey device (column 107, line 29-column 108, line 17). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Smolen to allocate points once a survey has been completed as

taught by Von Kohorn, thus insuring that a user would complete a survey instead of providing incomplete data.

Regarding claims 8 and 9, Smolen discloses in Figure 1, a STB 101 that tunes to a broadcast signal from broadcast system 120 and enables a user to take part in a survey, a user answers question and their responses are stored, in exchange for their responses a number of coupons or promotions are offered to the user (column 4, lines 6-18, column 5, line 1-column 6, line 57), user responses are stored locally and then transmitted to a processing facility 130 (column 7, lines 26-37). Smolen does not disclose allocating points once the program is viewed in its entirety. Von Kohorn discloses a survey system, which awards a user points/coupons once they have fully completed a survey on a survey device (column 107, line 29-column 108, line 17). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Smolen to allocate points once a survey has been completed as taught by Von Kohorn, thus insuring that a user would complete a survey instead of providing incomplete data.

Regarding claims 10 and 11, Smolen discloses in Figure 1, a STB 101 that tunes to a broadcast signal from broadcast system 120 and enables a user to take part in a survey, a user answers question and their responses are stored, in exchange for their responses a number of coupons or promotions are offered to the user (column 4, lines 6-18, column 5, line 1-column 6, line 57), user responses are stored locally and then transmitted to a processing facility 130 (column 7, lines 26-37). Smolen does not disclose allocating points once the program is viewed in its entirety. Von Kohorn

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discloses a survey system, which awards a user points/coupons once they have fully completed a survey on a survey device (column 107, line 29-column 108, line 17).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Smolen to allocate points once a survey has been completed as taught by Von Kohorn, thus insuring that a user would complete a survey instead of providing incomplete data.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,915,243 to Smolen in view of U.S. Patent 5,227,874 to Von Kohorn in further view of U.S. Patent 5,855,008 to Goldhaber and U.S. Patent 5,270,809 to Gammie.

Regarding claim 5, Smolen discloses in Figure 1, a STB 101 which enables a user to take part in a survey, a user answers question and their responses are stored, in exchange for their responses a number of coupons or promotions are offered to the user (column 4, lines 6-18, column 5, line 1-column 6, line 57). Smolen does not disclose a pay program determination means and processing means for performing accounting to points stored in the recording means. Goldhaber discloses an attention brokerage system, which provides user's credits for viewing advertising; these credits are stored in a consumer computer repository (column 9, line 53-column 11, line 45). Gammie discloses a pay per view system in which credits are downloaded to a set top box and utilized to purchase Pay Per View programming. The examiner takes official notice that the use of a program attribute to determine the type of programming is well known in the art. Therefore, it would have been obvious to one skilled in the art at the

time of invention to modify Smolen/Von Kohorn to issue credits as taught by Goldhaber and to use the stored credits to purchase pay per view programming as taught by Gammie and to utilize a programming identifier thereby enabling a user to trade their survey responses to view pay programming.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,256,614 to Wecker: Internet System for Producing Electronic Reward Cards.

U.S. Patent 6,057,872 to Candelore: Digital Coupons for Pay Televisions.

U.S. Patent 5,838,314 to Neel: Digital Video Services System with Optional Interactive Advertisement Capabilities.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5359 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

HBL  
August 6, 2003